

AMENDED IN ASSEMBLY APRIL 4, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1807

Introduced by Assembly Member Bonta

February 8, 2016

An act to amend Section ~~10176.1~~ 10083.2 of the Business and Professions Code, relating to ~~escrow agents~~ *real estate licensees*.

LEGISLATIVE COUNSEL'S DIGEST

AB 1807, as amended, Bonta. ~~Escrow agents~~ *Real estate licensees*.

The Real Estate Law provides for the licensure and regulation of real estate brokers and real estate salespersons by the Bureau of Real Estate headed by the Real Estate Commissioner. Existing law requires the commissioner to provide on the Internet specific information regarding the status of every license issued by the department.

This bill would require the commissioner, upon petition by a licensee accompanied by a specified fee, to remove from the posting of discipline an item that through passage of time and evidence of rehabilitation is no longer required to prevent a credible risk to members of the public utilizing licensed activity of the licensee.

~~Existing law subjects the escrow industry to various laws and regulations under the oversight of the Real Estate Commissioner, the Commissioner of Business Oversight, or the Insurance Commissioner. Existing law requires the commissioners to notify each other when taking enforcement or disciplinary action related to certain escrow services. Existing law requires the Bureau of Real Estate to maintain an Internet Web site that displays a database of individuals who have been subject to disciplinary action related to the escrow industry.~~

~~This bill would limit the time period for which the Bureau of Real Estate's Internet Web site is required to display disciplinary actions taken against a licensee to 10 years or a lesser as the Real Estate Commissioner deems to be in the best interest of the public.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. The Legislature finds and declares the following:*

2 *(a) It is appropriate for the Bureau of Real Estate to continue*
3 *to report on its license verification Internet Web page when*
4 *discipline has been imposed upon a licensee for conduct that*
5 *indicates a credible risk of financial or physical harm to members*
6 *of the public in the future.*

7 *(b) It is appropriate for the Bureau of Real Estate to consider*
8 *and grant on a case-by-case basis a licensee's petition to*
9 *discontinue the reporting of past disciplinary actions when the*
10 *petitioning licensee has demonstrated to the satisfaction of the*
11 *Real Estate Commissioner that the continued reporting is no longer*
12 *required in order to avoid or reduce such a risk to the public.*

13 *(c) The Bureau of Real Estate may require a petitioner to pay*
14 *in advance of consideration a fee to defray costs associated with*
15 *consideration of the petition.*

16 *(d) Nothing in this act shall be construed to authorize or require*
17 *the destruction of public records maintained pursuant to the*
18 *California Public Records Act (Chapter 3.5 (commencing with*
19 *Section 6250) of Division 7 of Title 1 of the Government Code),*
20 *or to refuse a request for production of such a record.*

21 *(e) The Legislature intends by this act to establish a process by*
22 *which a licensee may petition the Bureau of Real Estate to remove*
23 *a notice of past discipline from the license verification Internet*
24 *Web page of the bureau.*

25 *SEC. 2. Section 10083.2 of the Business and Professions Code*
26 *is amended to read:*

27 10083.2. (a) The commissioner shall provide on the Internet
28 information regarding the status of every license issued by the
29 department in accordance with the California Public Records Act
30 (Chapter 3.5 (commencing with Section 6250) of Division 7 of
31 Title 1 of the Government Code) and the Information Practices

Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public information to be provided on the Internet shall include information on suspensions and revocations of licenses issued by the department and accusations filed pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) relative to persons or businesses subject to licensure or regulation by the department. The information shall not include personal information, including home telephone number, date of birth, or social security number. The commissioner shall disclose a licensee's address of record. However, the commissioner shall allow a licensee to provide a post office box number or other alternate address, instead of his or her home address, as the address of record. This section shall not preclude the commissioner from also requiring a licensee who has provided a post office box number or other alternative mailing address as his or her address of record to provide a physical business address or residence address only for the department's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the Internet.

(b) For purposes of this section, "Internet" has the meaning set forth in paragraph (6) of subdivision (f) of Section 17538.

(c) Upon petition by a licensee accompanied by a fee sufficient to defray costs associated with consideration of a petition, the commissioner shall remove from the posting of discipline described in subdivision (a), an item that through passage of time and evidence of rehabilitation is no longer required in order to prevent a credible risk to members of the public utilizing licensed activity of the licensee.

~~SECTION 1. Section 10176.1 of the Business and Professions Code is amended to read:~~

~~10176.1. (a) (1) Whenever the commissioner takes any enforcement or disciplinary action against a licensee, and the enforcement or disciplinary action is related to escrow services provided pursuant to paragraph (4) of subdivision (a) of Section 17006 of the Financial Code, upon the action becoming final the commissioner shall notify the Insurance Commissioner and the Commissioner of Business Oversight of the action or actions taken. The purpose of this notification is to alert the departments that enforcement or disciplinary action has been taken, if the licensee~~

1 seeks or obtains employment with entities regulated by the
2 departments.

3 (2) ~~The commissioner shall provide the Insurance Commissioner~~
4 ~~and the Commissioner of Business Oversight, in addition to the~~
5 ~~notification of the action taken, with a copy of the written~~
6 ~~accusation, statement of issues, or order issued or filed in the matter~~
7 ~~and, at the request of the Insurance Commissioner or the~~
8 ~~Commissioner of Business Oversight, with any underlying factual~~
9 ~~material relevant to the enforcement or disciplinary action. Any~~
10 ~~confidential information provided by the commissioner to the~~
11 ~~Insurance Commissioner or the Commissioner of Business~~
12 ~~Oversight shall not be made public pursuant to this section.~~
13 ~~Notwithstanding any other provision of law, the disclosure of any~~
14 ~~underlying factual material to the Insurance Commissioner or the~~
15 ~~Commissioner of Business Oversight shall not operate as a waiver~~
16 ~~of confidentiality or any privilege that the commissioner may~~
17 ~~assert.~~

18 (b) ~~The commissioner shall establish and maintain, on the~~
19 ~~Internet Web site maintained by the Bureau of Real Estate, a~~
20 ~~database of its licensees, including those who have been subject~~
21 ~~to any enforcement or disciplinary action that triggers the~~
22 ~~notification requirements of this section for a period of 10 years~~
23 ~~or a lesser time as the commissioner deems to be in the best interest~~
24 ~~of the public. The database shall also contain a direct link to the~~
25 ~~databases, described in Section 17423.1 of the Financial Code and~~
26 ~~Section 12414.31 of the Insurance Code and required to be~~
27 ~~maintained on the Internet Web sites of the Department of Business~~
28 ~~Oversight and the Department of Insurance, respectively, of persons~~
29 ~~who have been subject to enforcement or disciplinary action for~~
30 ~~malfeasance or misconduct related to the escrow industry by the~~
31 ~~Insurance Commissioner and the Commissioner of Business~~
32 ~~Oversight.~~

33 (c) ~~There shall be no liability on the part of, and no cause of~~
34 ~~action of any nature shall arise against, the State of California, the~~
35 ~~Bureau of Real Estate, the Real Estate Commissioner, any other~~
36 ~~state agency, or any officer, agent, employee, consultant, or~~
37 ~~contractor of the state, for the release of any false or unauthorized~~
38 ~~information pursuant to this section, unless the release of that~~

- 1 ~~information was done with knowledge and malice, or for the failure~~
- 2 ~~to release any information pursuant to this section.~~

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